

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**RESPONSE TO OBJECTION TO MOTION FOR RELIEF FROM THE  
AUTOMATIC STAY**

COMES NOW creditor José Miguel Malvet Santiago (hereinafter, the “Movant”), through the undersigned legal counsel, and respectfully sets forth and prays:

1. Movant has a claim before the Commission for Appeals of Public Service (“CASP”) for his wrongful termination from the Puerto Rico Department of Corrections and Rehabilitation (*DCR* from its initials in Spanish).

2. Movant’s case before the CASP – *José Miguel Malvet v. Administración de Corrección*, Case No. 2007-07-0025 – was stayed once the case of caption was commenced.

3. Movant had engaged with Debtor in negotiations for the modification of the bankruptcy stay, but due to numerous clerical and personal challenges, continuation of the stay modification process was stalled.

4. When retaking the matter subsequently, Debtor was no longer willing to modify the stay as had been the case before.

5. Thus, on 23 September 2022, Movant filed a motion for relief from stay requesting the stay be modified to allow the continuance of his administrative case before the Commission for Appeals of Public Service (“CASP”).

6. On 28 October 2022, Debtor filed an objection to Movant’s request for relief by, in essence, stating that lifting the stay and allowing Movant’s claim to proceed to final judgment would be a waste of the Commonwealth’s resources, would significantly interfere with the administration of the Title III case and circumvent the requirements in the Confirmation Order”.

7. Debtor’s report of Movant’s request interfering with the administration of the present case and wasting the Commonwealth’s resources are grossly exaggerated.

8. Movant seeks relief from the automatic stay precisely because he is seeking redress for his wrongful termination under state and, more specifically, under administrative law.

9. Far from being a purely monetary claim, Movant’s claim is for remedy against unjust termination of his employment. Though there is an economic factor in the possibility of there being wrongfully unpaid wages, the actual employment and the harm of its termination on Movant’s pride and emotional well-being is the crux of the matter.

10. The CASP is the proper venue for determining whether Movant was unduly terminated and whether there is a valid claim for unpaid wages. As is the case in circumstances such as these, enforcement of the claim requires the resolution of issues which, under a regulatory scheme, have been placed within the special competence of an administrative body; in such a case the judicial process is suspended pending referral of such issues to the administrative body for its views. *United States v. W. Pac. Ry. Co.*, 352

U.S. 59, 64 (1956); *see also Miller v. WD-40 Co.*, 29 F. Supp. 2d 1040, 1045 (D. Minn. 1998).

11. The remedy Movant seeks will not prejudice the interests of other creditors and it will not interfere with the continuation of the proceedings in the case of caption. Movant's monetary claim would still be subject to the conditions of Debtor's plan, but the his employment status and, more importantly, he would not be denied the satisfaction of clearing his name from the stigma of being wrongfully terminated.

**WHEREFORE**, Movant respectfully requests from the Honorable Court to take notice the foregoing and enter an order modifying the automatic stay so that Case No. 2007-07-0025 before the Commission for Appeals of Public Service may continue.

#### **CERTIFICATE OF SERVICE**

I hereby certify that, on 13 November 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record and parties in the Master Service List.

/s/ **Miguel Ángel Serrano Urdaz**  
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